

IC 34-50

ARTICLE 50. SETTLEMENT OF CLAIMS

IC 34-50-1

Chapter 1. Offers of Settlement

IC 34-50-1-1

Applicability of chapter

Sec. 1. (a) This chapter applies only to actions in tort brought under:

- (1) IC 33, including IC 33-1-1.5 before its repeal; or
- (2) this title.

(b) This chapter does not apply to small claims actions.

As added by P.L.1-1998, SEC.46.

IC 34-50-1-2

Time of offer

Sec. 2. A qualified settlement offer may be made at any time after a complaint has been filed in a civil action, but may not be made less than thirty (30) days before a trial of the action.

As added by P.L.1-1998, SEC.46.

IC 34-50-1-3

Resolution of issues before acceptance

Sec. 3. A qualified settlement offer must resolve all claims and defenses at issue in the civil action between the offeror and the recipient before the qualified settlement offer may be accepted by the recipient.

As added by P.L.1-1998, SEC.46.

IC 34-50-1-4

Requirements of qualified settlement offer

Sec. 4. A qualified settlement offer must:

- (1) be in writing;
- (2) be signed by the offeror or the offeror's attorney of record;
- (3) be designated on its face as a qualified settlement offer;
- (4) be delivered to each recipient or recipient's attorney of record:
 - (A) by registered or certified mail; or
 - (B) by any method that verifies the date of receipt;
- (5) set forth the complete terms of the settlement proposed by the offeror to the recipient in sufficient detail to allow the recipient to decide whether to accept or reject it;
- (6) include the name and address of the offeror and the offeror's attorney of record, if any; and
- (7) expressly revoke all prior qualified settlement offers made by the offeror to the recipient.

As added by P.L.1-1998, SEC.46.

IC 34-50-1-5

Acceptance

Sec. 5. An acceptance of a qualified settlement offer must be:

- (1) unconditional;
- (2) in writing;
- (3) signed by the accepting recipient or the accepting recipient's attorney of record; and
- (4) delivered:
 - (A) by registered or certified mail or by a means that verifies the date of receipt;
 - (B) to the offeror or the offeror's attorney of record; and
 - (C) not more than thirty (30) days after the recipient receives the qualified settlement offer.

As added by P.L.1-1998, SEC.46.

IC 34-50-1-6**Attorney's fees and costs**

Sec. 6. (a) If:

- (1) a recipient does not accept a qualified settlement offer; and
- (2) the final judgment is less favorable to the recipient than the terms of the qualified settlement offer;

the court shall award attorney's fees, costs, and expenses to the offeror upon the offeror's motion.

(b) An award of attorney's fees, costs, and expenses under this section must consist of attorney's fees at a rate of not more than one hundred dollars (\$100) per hour and other costs and expenses incurred by the offeror after the date of the qualified settlement offer. However, the award of attorney's fees, costs, and expenses may not total more than one thousand dollars (\$1,000).

(c) A motion for an award of attorney's fees, costs, and expenses under this section must be filed not more than thirty (30) days after entry of judgment. The motion must be accompanied by an affidavit of the offeror or the offeror's attorney establishing the amount of the attorney's fees and other costs and expenses incurred by the offeror after the date of the qualified settlement offer. The affidavit constitutes prima facie proof of the reasonableness of the amount.

(d) Where appropriate, the court may order a judgment entered against the offeror and in favor of the recipient reduced by the amount of attorney's fees, costs, and expenses awarded to the offeror under this section (or IC 34-4-44.6-8 before its repeal).

As added by P.L.1-1998, SEC.46.